

Amber LaRowe, City Clerk
City Hall, City Clerk's Office
155 Corey Avenue
St. Pete Beach, FL 33706
February 2, 2025
CERTIFIED MAIL: 7020 2450 0001 0300 9908

PLEASE CORRESPOND TO:
GEOFFREY CAPUTO
4604 49TH ST. N #140
KENNETH CITY, FL. 33709
FLORIDAREPUBLIC@GMAIL.COM

RE: Public Records Request for Documentation Supporting Noise Ordinance Justification

Notice to Principal is Notice to Agents and Notice to Agents is Notice to Principal; Moreover, the enclosed is notice to all Assigns and Successors of the addressed Office or the like. The term "or the like" means any office that is styled in an analogous or similar manner as the addressed. And to negate misnomers or other affiliations which would prevent any Party from being personally liable as a natural person or man or woman, any configuration of the name of any Party addressed herein means and includes the full legal or Christian name of any such Party addressed.

Greetings Clerk LaRowe,

I am submitting this Public Records Request for Documentation Supporting Noise Ordinance Justification (*"documents request"*, or *"DR" herein*) pursuant to Florida Statute § 119 for access to public records related to the new noise ordinance passed by the City Commission of St. Pete Beach.

There were six factual allegations claimed by the council as the rationalization for passing the ordinance described in the city council agenda titled, *"CITY COMMISSION MEETING CITY OF ST. PETE BEACH, Agenda Report: Consider adoption of additional clearly audible, nuisance based standard in the noise ordinance"*, and dated January 28, 2025.

Therefore documents are hereby requested which consist of the six categories (DR1-6): **Health Impact Studies, Community Feedback Records, Economic Impact Assessments, Legal Memos or Opinions, Enforcement Records, and Business Impact Estimates**

Response Timeline and Implications:

Initial Response (IR): I request that you provide the documents listed below within 30 calendar days from the receipt date of this letter.

Notice of Fault (NOF): Should there be no response or if the response does not include the requested documents or provides irrelevant information within this period, I will consider this a fault in good faith response. I will issue a second notice, granting an additional 7 calendar days for the city to correct this oversight.

Notice of Administrative Default (NOAD): After this additional 7-day period, should there continue to be no relevant response or if the documents remain undisclosed, I will issue a Notice of Administrative Default. This would indicate that all administrative remedies have been exhausted, demonstrating the city's unwillingness or inability to provide the requested documentation.

Mediation (MED): The issuance of the NOAD would serve as a basis for seeking mediation through the Florida Attorney General's Public Records Mediation Program, as the next step to resolve this dispute and ensure compliance with public records law.

I. REQUESTED FORMAT FOR DOCUMENTS REQUEST

Understanding that the volume of records over the past three years could be significant, I propose the following strategy to manage this request:

Initial Tally Request: For your first response, please provide only a tally each of the following document requests 1-6 below by number and category, and then followed by the cost. If cost estimates will delay the tally, please provide tally only ASAP as priority. For each of the following document categories 1-6, I request a tally of the number of records available from the past three years: For each of the six categories of records, please format as follows

- Document Request (*DR*) Number [*DR1, DR2, DR3a, 3b, etc...*]
Total Number of Records: [Specify Quantity]
Yearly Breakdown:
2021: [Quantity]
2022: [Quantity]
2023: [Quantity]
2024: [Quantity]
2025: [Quantity] (up to the current date)

A SAMPLE DOCUMENT REQUEST TALLY TABLE IS PROVIDED ON PAGE 8 OF THIS COMMUNICATION.

If No, such record(s) exist, please quantify in the format described above with a zero, "0" in the Document Request Tally Table, or classified by document request number and category.

If such records exist and are exempt from disclosure:

Redaction: Pursuant to Florida Statute § 119.07(1)(d), please redact those portions exempt from disclosure and provide the non-exempt remainder.

Complete Exemption: If the record is completely exempt, pursuant to Florida Statute § 119.07(1)(e), state which record and the basis of the exemption, including the statutory citation.

Written Explanation: Also, pursuant to Florida Statute § 119.07(1)(f), provide in writing and with particularity the reasons for the conclusion that the record is exempt or confidential.

Reminder: Under Florida Statute § 119.07(1)(c), you are required to acknowledge this request promptly and respond in good faith. This includes making reasonable efforts to determine from other officers or employees within the agency whether the requested records exist. Failure to respond promptly or to clarify whether records do or do not exist will be interpreted by the undersigned as not acting in good faith.

Understanding Volume and Cost:

I acknowledge that the complete retrieval of these records might be voluminous, potentially requiring significant effort and cost. Therefore, I am willing to pay for the retrieval, copying, or any other associated costs for these documents. Please provide an estimate of these costs based on the tally table provided on page 8.

Pending Full Retrieval:

Upon receiving the tally with cost estimate, I will confirm my commitment to proceed with the full retrieval of the records. If cost estimates delay tally, please send tally only as a priority.

II. DOCUMENT REQUEST CATEGORIES 1-6 (DR 1-6, HEREIN)

Pursuant to the city council agenda titled "*CITY COMMISSION MEETING CITY OF ST. PETE BEACH, Agenda Report: Consider adoption of additional clearly audible, nuisance based standard in the noise ordinance*" dated January 28, 2025, I am submitting this request under Florida Statute § 119 for access to public records related to the new noise ordinance in St. Pete Beach. Digital Copies: **If possible, digital copies are preferred** in order to facilitate analysis, especially for large datasets or reports.

1. DR1: Health Impact Studies (HIS): Documentation or research cited by the City Commission to support claims about the health impacts of excessive noise.

- a. Local or regional studies on health impacts of noise pollution.
- b. Data from health departments or universities on noise-related health issues

2. DR2 Community Feedback Records (CFR) : All records of community feedback, including but not limited to complaints, surveys, town hall meeting minutes, or public comments from the last three years, specifically addressing noise issues in St. Pete Beach. Any feedback that explicitly discusses the impact of noise on quality of life, health, or property values. any digital records like emails or social media posts where community members have voiced their opinions on noise, especially if these platforms were used for official feedback collection.

3. DR3 Economic Impact Assessments (EIA): Studies or reports linking noise levels to property value depreciation within St. Pete Beach or comparable areas. (note: please index each as "DR3a, 3b, etc...")

- a. Historical Property Value Data:
 - Assessments and Tax Records: property assessment data for areas near known noise sources compared to quieter areas over a significant period which demonstrate trends in property value changes.
- b. Appraisal Reports:
 - Specific Appraisals: Appraisals of properties close to venues or areas where noise complaints are common, which could reflect comments or adjustments made due to noise.
- c. Comparative Sales Data:
 - Sales Records: Documentation showing sales prices of properties in noisy areas vs. quieter areas to establish if there's a noticeable difference or decline over time due to noise.
- d. Real Estate Market Analyses:
 - Market Reports: Any market analyses, especially those done by real estate firms or city departments, that discuss factors affecting property values, including noise.
- e. Noise Level Measurements:
 - Noise Studies: Any studies or measurements conducted by the city or third parties that correlate specific noise levels with property values in St. Pete Beach.

- f. Expert Testimonies or Opinions:
 - Expert Reports: If the city has engaged experts to discuss the impact of noise on property values, ask for these reports or any presentations made to the city commission.
- g. Public Feedback and Complaints:
 - Surveys or Public Comments: Records of public feedback where noise affecting property value or livability was explicitly mentioned by residents.
- h. Economic Impact Assessments:
 - Business Impact Studies: If there's a broader economic study, it might include data on how noise affects property values indirectly through business health or tourism.
- i. Zoning and Development Impact:
 - Zoning Changes: Documentation on zoning decisions or changes made in response to or in anticipation of noise issues, which might reflect an acknowledgment of noise impact on property values.
- j. Academic or Industry Research:
 - Citations or Studies: Any academic research or industry white papers cited by city officials in support of the noise-property value correlation.
- k. Mitigation Efforts:
 - Details on any noise mitigation projects undertaken by the city in the last decade, including before-and-after studies or predictions on how these projects would or did affect property values."

4. **DR4: Legal Memos or Opinions (LMO):** Any legal analysis or correspondence justifying the alignment of the new noise ordinance with existing state laws or local ordinances.

5. **DR5: Enforcement Records (ER):** Enforcement records related to noise violations over the last three years in St. Pete Beach. Include:

- a. Number of citations issued per year for noise violations,
- b. Locations where these violations were most frequent.
- c. Outcomes of these enforcement actions (e.g., fines paid, cases dismissed, court rulings).
- d. Any internal or external reviews assessing the effectiveness of noise enforcement in reducing noise levels or complaints.
- e. Any GIS mapping or data visualizations if available, showing where and how often noise enforcement actions have occurred in relation to residential and commercial zones

6. **DR6: Business Impact Estimates (BIE):** The complete business impact estimate prepared under Florida Statute 166.041(4) for the new noise ordinance, including:

- a. Detailed analyses or projections on how the ordinance might affect local businesses, particularly those in the hospitality and entertainment sectors.
- b. Any data or models used to estimate changes in business revenue, customer traffic, or operational costs due to the new noise regulations.
- c. Correspondence or minutes from meetings where this estimate was discussed or presented to the City Commission.
- d. Records of consultations with local business organizations or chambers of commerce,, including any feedback or concerns raised by businesses.

Contact for Costs: Along with the Document Tally Table and associated costs, if digital copies are not available via email, and if there are any additional costs associated with copying or providing these documents, please contact me at

Geoffrey Caputo
4604 49TH ST. N #140
KENNETH CITY, FL. 33709
FLORIDAREPUBLIC@GMAIL.COM

Thank you for your prompt attention to this matter.

Sincerely, 

Geoffrey Caputo

III. AFFIDAVIT IN SUPPORT OF DOCUMENTS REQUESTS 1-6 (DR1-6)

STATE OF FLORIDA
COUNTY OF PINELLAS

I certify that this is a true and exact copy of the original document presented to me by Geoffrey Caputo.
D. Holloway



Deshaun Holloway
Comm.: HH 614469
Expires: Nov. 20, 2028
Notary Public - State of Florida

I, Geoffrey Caputo, being duly sworn, depose and state as follows:

Pursuant to the factual allegations forming the basis for the proposed noise ordinance of the CITY COMMISSION MEETING CITY OF ST. PETE BEACH, Agenda Report: Consider adoption of additional clearly audible, nuisance based standard in the noise ordinance" dated January 28, 2025,

1. **DR1:** Affiant has not seen nor been presented with any material facts or evidence demonstrating the existence of any Health Impact Studies, and I deny that such records exist.
2. **DR2:** Affiant has not seen nor been presented with any material facts or evidence demonstrating the existence of any Community Feedback Records, and I deny that such records exist.
3. **DR3:** Affiant has not seen nor been presented with any material facts or evidence demonstrating the existence of any Economic Impact Assessments related to property values, and I deny that such records exist.
4. **DR4:** Affiant has not seen nor been presented with any material facts or evidence demonstrating the existence of any legal analysis or correspondence justifying the alignment of the new noise ordinance with existing state laws or local ordinances, and I deny that such records exist.
5. **DR5:** Affiant has not seen nor been presented with any material facts or evidence demonstrating the existence of any Enforcement Records data on noise violations, citations, and enforcement actions under the current or previous noise ordinances to demonstrate the effectiveness or lack thereof.
6. **DR6:** Affiant has not seen nor been presented with any material facts or evidence demonstrating the existence of Business Impact Estimate prepared under Florida Statute 166.041(4) regarding the business impact of the proposed noise ordinance, and I deny that such records exist.

Conclusion: This affidavit is submitted in good faith to support my public records request to the City of St. Pete Beach, should I not have received any tally of, or any documentation or evidence that would substantiate the claims made by the city in relation to the noise ordinance discussed in the city council meeting on January 28, 2025. My aim is to ensure transparency and compliance with Florida Statute § 119 by documenting my experience and the absence of evidence provided by the city regarding the aforementioned document requests.

FURTHER AFFIANT SAYETH NOT.

Geoffrey Caputo

February 2, 2025

Sworn to and subscribed before me this 2nd day of February 2025 by Geoffrey Caputo has produced identification via Florida Drivers License C-130-290-70-305-0.

Notary Public

D. Holloway



Deshaun Holloway
Comm.: HH 614469
Expires: Nov. 20, 2028
Notary Public - State of Florida

My Commission Expires: *Nov 20, 2028*

IV. MEMORANDA OF LAW FOR AFFIDAVIT IN SUPPORT OF DR1-6

Preliminary Statement:

While this matter does not yet constitute a docketed court case, the undersigned, as the Affiant, asserts that the absence of documentation in response to the public records request can be construed as a "default admission" *on the administrative level* by the City of St. Pete Beach that no such records exist, pending their production.

1. Must The Common Law of England be recognized by all Florida Courts?
 - Florida Statutes 2.01 and 775.01: These statutes confirm that the common law of England, not inconsistent with modern law, is enforceable in Florida. Thus, applicable common law principles must be recognized.
2. Are there Common Law Maxims which express that silence constitutes consent or admission?
Relevant Maxims:
 - Qui tacet consentire videtur - "He who is silent appears to consent."
 - Tacita quaedam habentur pro expressis - "Things silent are sometimes considered as expressed."
 - Ejus est non nolle, qui potest velle - "He who may consent tacitly, may consent expressly."

These maxims support the notion that silence or lack of response can be interpreted as an admission or consent in legal contexts.

3. Do Courts recognize Sir William Blackstone as authoritative in interpreting the Common Law of England?

Decisions like *Wilson v. Arkansas*, *Adickes v. S.H. Kress and Company*, and *Coventry First v. State* affirm Blackstone's authority in interpreting common law.

4. Must Florida Courts recognize the Common Law Maxims above?
 - Blackstone's Commentary: Volume 1 § 82 acknowledges maxims as rules of common law based on custom and usage.
 - Therefore, if Florida courts observe these maxims, they must recognize them as part of the common law applicable in Florida.
5. Do Florida courts observe, as a matter of custom and usage, the principles of the maxims above?

Florida Case Law: Cases such as *Elliott v. Aurora Loan Serv.*, *Vacation Ventures v. Holiday Promo.*, *Rafal v. Mesick*, *Weiss v. Leatherberry*, and *Horowitz v. Laske* demonstrate that silence or failure to counter with evidence shifts judicial favor towards the party making uncontradicted assertions.

Conclusion:

Based on the common law principles and Florida case law cited, the Affiant asserts that the City's failure to respond or produce the requested documents should be interpreted administratively as a "default admission" that no such records exist, unless and until such records are produced. This interpretation is grounded in the legal tradition where silence can be deemed an admission, especially in the context of sworn statements (affidavits) and the absence of counter-affidavits or evidence. The city's non-response thus serves as an implicit acknowledgment under common law maxims, justifying the Affiant's claim of an administrative "default admission" pending production of the documents.

Submitted this 2nd day of February, 2025 _____, Geoffrey Caputo

	DOCUMENT REQUEST TALLY						
	EXEMPT (Y or N)	2021	2022	2023	2024	2025	2021-2025 SUB TOTALS
DR1 a-b							
a							
b							
DR2							
DR3 a-k							
a							
b							
c							
d							
e							
f							
g							
h							
i							
j							
k							
DR4							
DR5 a-e							
a							
b							
c							
d							
e							
DR4 a-d							
a							
b							
c							
d							
YEARLY SUB TOTALS							
						2021-2025 GRAND TOTAL DR1-6	
						COST	\$_____

To: Amber LaRowe, City Clerk
City Hall, City Clerk's Office
155 Corey Avenue
St. Pete Beach, FL 33706
Date: March 8, 2025
Cert # 7020 2450 0001 0277 5118

NOTICE OF FAULT / FOLLOW-UP - PUBLIC RECORDS REQUEST

Dear City Clerk LaRowe,

A public records request reached your office on the 5th of February 2025 via USPS Certified Mail (Tracking Number: 7020 2450 0001 0300 9908), tied to Ordinance 2025-02's first reading—the noise ordinance. It covered Health Impact Studies, Community Feedback Records, Economic Impact Assessments, Legal Memos, Enforcement Records, and Business Impact Estimates. A tally sheet was included for a simple start, if the rest took a bit longer. It's obvious the city's got a full plate with Hurricanes Helene and Milton—a lot to handle, naturally.

Florida Statute § 119.07(1)(c) points to a response within 10 business days as a general practice. From the 5th of February to the 17th, that time passed quietly. Now, on the 8th of March—30 days on—the tally sheet/cost estimate is still pending. Although there's a workshop planned for the 22nd of April, there are resulting gaps where the documentation could help ascertain the ordinance's need or purpose.

§ 166.041(4)(a), Business Impact Estimate— should include risk analyses, contingencies, with some evidence of commercial venue outreach. To no avail, on the city's website's the the terms —'impact estimate,' 'noise' were queried—though other BIEs are about. A fault is therefore worthy to note, and provided to the clerk was another copy of said tally sheet to complete within 7 business days from receipt of this notice —with perhaps a projected timeline referencing / indexing each Document Request (DR1-6) with cost estimate.

Otherwise it will be construed that the City of St. Pete Beach is in an *administrative default at common law (ADACL- please see Memoranda In Support of Affidavit sent previously)*, and without documentation to fulfill this §119 request which could demonstrate a compelling government interest and rational basis for said ordinance. Further administrative remedies could include mediation at the state level.

Constitutionally Yours,
Geoffrey Caputo,



CORRESPONDENCE:

Geoffrey Caputo
4604 49th St. N #140
St. Petersburg, FL 33709
floridarepublic@gmail.com

Attached: Tally Sheet for DR1-6

Notice to Principal is Notice to Agents and Notice to Agents is Notice to Principal

City of St. Pete Beach, FL -
Records Request **PRR2025-22**
Completed Notification ➤



Inbox



JustFOIA Notificat... Mar 11
to me ▾



Hello,

The request [Request Number: PRR2025-22](#)
has been completed.

If you have any questions, please contact the
St. Pete Beach City Clerks office at
cityclerk@stpetebeach.org or call 727-363-
9201.

Thank you,

Amber LaRowe
City Clerk
City of St. Pete Beach
[155 Corey Avenue](#)
[St. Pete Beach, FL. 33706](#)
Phone: 727.363.9220
Fax: 727.541.8040

To: Amber LaRowe, City Clerk
City Hall, City Clerk's Office
155 Corey Avenue
St. Pete Beach, FL 33706
Date: March 13, 2025
USPS Cert. 9589 0710 5270 0028 5340 5340 41

THANK YOU LETTER FOR PARTIAL RESPONSE PER PRR2025-22

Dear City Clerk LaRowe, *(Notice to Principal is Notice to Agents / Notice to Agents is Notice to Principal)*

Thank you for your response to my public records request sent via email this past Tuesday (3/11/25), received by the city on February 5, 2025, via USPS Certified Mail (Tracking Number: 7020 2450 0001 0300 9908) and recorded as PRR2025-22. I appreciate the documents provided, including DR1, DR2, and DR5, and your note indicating that the request is "completed."

However, I must note that critical documents—specifically DR3 (Economic Impact Assessments), DR4 (Business Impact Estimates), and DR6 (Attorney Review Records)—were not included in PRR2025-22. Under Florida Statute § 119.07(1)(c), the city is required to provide a complete response to public records requests, and to expedite a 10-day response under Florida Law, I provided a template for a tally sheet of responsive documents, with a request to fill in with zeroes (0) - the documents which do not exist, even prior to a cost estimate. The absence of these documents raises concerns about the city's compliance with statutory obligations and the transparency of Ordinance 2025-02's development.

If this response is indeed deemed complete, I will construe that no additional documents exist to substantiate the ordinance's claims regarding health impacts, economic effects, or enforcement needs. This assumption is significant, as it suggests the city may lack evidence to support the ordinance's foundational assertions.

Accordingly, I remain on pace for the Administrative Default At Common Law (ADACL) deadline of March 18, 2025. Should the city want an extension till one week prior to the workshop date of April 22, please correspond and let me know. Should any new or additional documents become available before then, I have provided the tally table, in which I've included the documents that were produced. I would welcome any new document, should it come out of the pile per chance, to be included to ensure a full understanding of the ordinance's basis. Please return the completed table, even putting zeroes (0) in the blank spaces even if no documents turn up by the 18th of March, or if an extension is requested - by April 15, 2025.

Constitutionally Yours, 
Geoffrey Jacob Caputo

CORRESPONDENCE:
Geoffrey Caputo
4604 49th St. N #140
St. Petersburg, FL 33709
floridarepublic@gmail.com

Attached:

Partially Submitted Document Request Tally Table

Notice of Administrative Default at Common Law - PRR2025-22

Adrian Petrila
Mayor, St. Pete Beach,
City Hall
155 Corey Avenue
St. Pete Beach, FL 33706
March 28, 2025

USPS Cert: 7020 2450 0001 0277 5811

CORRESPONDENCE:

Geoffrey Caputo
4604 49TH ST. N #140
Kenneth City, FL 33709
floridarepublic@gmail.com

Servus Mayor Petrilla, (*Notice To Principle Is Notice To Agent/Notice To Agent Is Notice To Principle*):

This letter accompanies the enclosed *Notice of Administrative Default at Common Law (ADACL)* regarding the City of St. Pete Beach's response to *Public Records Request PRR2025-22*.

The purpose of this communication is to formally document the City's default in fully responding to the aforementioned request. Despite the initial *Notice of Fault* and subsequent communications, the City's partial response and failure to address noted deficiencies, including the **refusal to complete the tally sheet with zeros or exemptions**, constitute *tacit acquiescence to the non-existence* or inadequacy of critical documents supporting *Ordinance 2025-05*. This is grounded in the legal principle of *qui tacet consentire videtur*.

It is hereby requested that the City of St. Pete Beach address the deficiencies outlined in the attached documents promptly before the April 22 workshop or suspend any activity on *Ordinance 2025-05* pending documentation supporting the reasons given on page 220 in the *01282025 CC Agenda Packet* which could rationalize its enactment.

Attached is the tally sheet with the documents from *PRR2025-22*, as they stand. If the tradition of transparency St. Pete Beach is known for holds, filling in exemptions (*Fl. Stat. Ch. 119.07(1)(c,d,f)*) or zeroes for records not in custody or control could be a great step forward. Sending it via email or USPS would keep the spirit of openness.

Constitutionally Yours,



Geoffrey Jacob Caputo, 03/28/2025
{Administrative Processor At Common Law} -
- Florida

Attachments:

1. Findings of Fact in Administrative Record (FFAR)
2. Conclusions At Law Of Administrative Record (CLAR)
3. Memoranda of Law In Support of ADACL
4. Tally Table of *Partially Fulfilled DR1-6*

cc: Karen Marriott Commissioner, District 1 / Lisa Robinson Commissioner, District 2 / Betty Rzewnicki Commissioner, District 3 / Joe Moholland Commissioner, District 4 / Ralf Brooks, Interim City Attorney

I. FINDINGS OF FACT IN ADMINISTRATIVE RECORD

State of Florida)
County of Pinellas)

(1) Introduction

This document outlines the findings of fact related to *Public Records Request PRR2025-22*, submitted to the City of St. Pete Beach.

(a) Factual Background

- (i) Request Submission:** On February 2, 2025, I submitted *PRR2025-22* via USPS Certified Mail (Tracking #70202450000103009908), “USPS#___”, herein), received February 5, requesting six document categories (*DR1-DR6*) related to *Ordinance 2025-02* and a tally sheet to indicate document existence or non-existence by category and year (2021-2025).
- (ii) Notice of Fault:** On March 8, 2025, I issued a *Notice of Fault* via USPS #7020 2450 0001 0277 5118, alleging non-compliance after a 30-day lapse (February 5 to March 7), demanding tally sheet by March 15. This preceded any city response.
- (iii) Partial Response:** On *March 15, 2025*, the city provided a partial response via JustFOIA, emailed by Amber LaRowe, addressing *DR1, DR2, DR5 (all partially)*, omitting *DR3, DR4, DR6*, and tally sheet—*post-Fault*, showing delay.
- (iv) Thank You Letter (Quasi-Second Notice):** On *March 13, 2025*, I sent a *Thank You Letter* via USPS #95890710527000285340534041, acknowledging the forthcoming partial response (received March 15), noting *deficiencies in DR1, DR2, DR5's scope*, and the *absence of DR3, DR4, DR6*, setting *March 18 or April 15 deadlines*.
- (v) Non-Compliance and Document-Specific Issues:** As of March 25, 2025, the city has not fully responded, omitting *DR3, DR4, DR6* entirely, partially fulfilling *DR1, DR2, DR5* with inadequate scope, and failing to mark non-existent documents with zeros, despite the city-wide claims made in the 01282025CC Agenda Packet.

The Mayor and Commissioners have been copied throughout the entire process detailed above, and the USPS Cert. # are available on request.

Details And Implications As Follows:

VERIFIED Notice of Administrative Default at Common Law - PRR2025-22

(2) Document-Specific Findings

(a) DR1: Health Impact Studies (HIS)

- (i) **Requested:** Documentation or research supporting noise-related health claims, including local epidemiological data (e.g., from FDOH).
- (ii) **Partially Fulfilled:** December 2023 Staff Presentation mentions noise mitigation, focused solely on Red, White & Booze (RWB) and another case (per clerk's March 15 response).
- (iii) **Unfulfilled:** No Florida CHARTS data (<https://www.flhealthcharts.gov/>) or FDOH epidemiological investigation for city-wide trends in noise-induced conditions (e.g., hearing impairment, hypertension), as noted in my *Thank You Letter*.
- (iv) **Implication:** RWB-centric 2023 data doesn't reflect a city-wide health crisis, undermining the agenda's broad health claims under Fla. Stat. § 381.0031.
- (v) **Adverse Inference for Lack of Documentation:** The city's failure to provide city-wide health data suggests no such trend exists or would contradict their claims (*Public Health Trust of Dade County V. Valcin*, 507 So. 2d 596, Fla. 1987).

(b) DR2: Community Feedback Records (CFR)

- (i) **Requested:** Complaints, surveys, town hall minutes, public comments (2021-2025), feedback on quality of life, health, or property values, including digital records.
- (ii) **Partially Fulfilled:** Correspondence and letters from 2023, primarily RWB complaints (per clerk's March 15 PDF upload).
- (iii) **Unfulfilled:** No feedback from 2021, 2022, 2024, or 2025; no surveys, town hall minutes, or city-wide comments beyond RWB; no digital records outside 2023, as flagged in my *Thank You Letter*.
- (iv) **Implication:** 2023 RWB-focused letters can't demonstrate a city-wide consensus or trend justifying Ordinance 2025-05's scope.
- (v) **Adverse Inference:** The absence of multi-year, city-wide feedback infers no broad community support or need exists (*Public Health Trust V. Valcin*, 507 So. 2d 596, Fla. 1987).

VERIFIED Notice of Administrative Default at Common Law - PRR2025-22

(c) DR3: Economic Impact Assessments (EIA)

(i) **Requested:** Studies linking noise to property value depreciation, including historical sales data and noise measurements.¹

(ii) **Unfulfilled:** No studies provided (per March 15 response and Thank You Letter).

(iii) **Implication:** Without hedonic models, the agenda's "declining property values" claim lacks factual basis.

CONDITION	ICD-10-CM CODES	TRACKED IN CHARTS?
<i>Hearing Impairment</i>	H90.3, H91.90, H83.3	Yes (disability/hospital data)
<i>Hypertension</i>	I10, I11.9, I11.0	Yes (chronic disease stats)
<i>Ischemic Heart Disease</i>	I25.10, I25.110	Yes (mortality/morbidity)
<i>Sleep Disturbance</i>	G47.9, G47.00, F51.9	Yes (indirect via mental health)
<i>Annoyance</i>	None (R45.1 proxy)	No
<i>Decreased School Performance</i>	None (F81.9 proxy)	No (education data instead)

¹ **Investopedia** – "Hedonic Pricing" (<https://www.investopedia.com/terms/h/hedonicpricing.asp>): Property prices bundle internal (e.g., size) and external factors (e.g., noise). Hedonic regression quantifies noise's specific value decrease (e.g., % per decibel), unlike raw averages that mask causality.

Corporate Finance Institute – "Hedonic Regression Method" (<https://corporatefinanceinstitute.com/resources/economics/hedonic-regression-method/>): Real estate's complex attributes demand regression to estimate noise's "hedonic price," offering precision basic metrics can't.

Review of Environmental Economics and Policy – Bishop et al. (2020) (<https://www.journals.uchicago.edu/doi/10.1093/reep/reaa001>): Hedonic models are the "premier approach" for valuing noise's impact, controlling spatial and housing variables to isolate marginal losses—simple methods fail this test.

UK Office for National Statistics – "Hedonic Pricing Method Note" (<https://www.ons.gov.uk/economy/environmentalaccounts/methodologies/valueofnatureimplicitinpropertypriceshedonicpricingmethodhp>): Raw data can't unbundle noise effects; hedonic regression's 80%+ R-squared proves its necessity for credible disamenity analysis.

ScienceDirect – Taylor, L.O. (2018) (<https://www.sciencedirect.com/science/article/abs/pii/S157400991830018X>): Hedonic models dominate environmental valuation, using sales data to pinpoint noise-driven declines—census aggregates lack this rigor.

CoreLogic Australia – "Home Value Index" (<https://www.corelogic.com.au/our-data/corelogic-indices>): Hedonic indices avoid compositional bias of repeat sales, modeling all properties to track noise-related value drops accurately.

Complexity: Noise's impact on property values is tangled with location, size, and amenities—hedonic models untangle it via regression, per Investopedia and Taylor.

Isolation: Simple averages or median sales (e.g., Pinellas County data) can't isolate noise's effect; hedonic regression pinpoints its marginal cost, per CFI and Bishop et al.

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(iv) Adverse Inference: The city's failure to produce hedonic model analyses in DR3 means the purported "declining property values" claim is unsubstantiated conjecture, not fact.

(d) DR4: Legal Memos or Opinions (LMO)

(i) Requested: Legal analysis or correspondence supporting the ordinance.

(ii) Partially Fulfilled: A memorandum of law from the *January 28, 2025*, agenda packet regarding the *Catalano* case (per prior input, assumed in clerk's response).

(iii) Unfulfilled: No additional legal memos or analyses beyond the Catalano-specific document addressing Ordinance 2025-02's city-wide scope, First Amendment, or compliance with state law, as noted in my Thank You Letter.

(iv) Implication: A single case memo doesn't substantiate the ordinance's broader legal foundation, leaving its city-wide application and constitutional risks unaddressed.

(v) Adverse Inference: The lack of comprehensive legal analysis beyond Catalano infers no robust defense exists for Ordinance 2025-02's scope or would expose vulnerabilities (Valcin, Id.).

(e) DR5: Enforcement Records (ER)

(i) Requested: Citations issued per year (2021-2025), locations of frequent violations, outcomes, effectiveness reviews.

(ii) Partially Fulfilled: May-July 2023 noise surveys (decibel readings) tied to RWB, and 2007 measurements (per clerk's March 15 response).

(iii) Unfulfilled: No citation counts, city-wide violation locations, outcomes, or effectiveness reviews (2021-2025), as noted in my Thank You Letter.

(iv) Implication: RWB-focused 2023 and 2007 data—18 years stale—don't reflect a current, city-wide enforcement need.

(v) Adverse Inference: Failure to show city-wide enforcement data suggests no pervasive issue exists (Valcin, Id.).

(f) DR6: Business Impact Estimates (BIE)

(i) Requested: Compliance with Fla. Stat. § 166.041(4)(a) Business Impact Estimate ² for Ordinance 2025-05.

(ii) Unfulfilled: The city disregarded § 166.041(4)(a)'s mandates and global norms ³, leaving venue impacts and enforcement costs unquantified, untested, and opaque.

(A) Evidence: Even if there was a BIE, there must be a Public Purpose (§ 166.041(4)(a)): GAO (Ch. 4, p. 38) There is no economic impact statement tying Ordinance 2025-05 to noise control goals.

(B) No Business Count (§ 166.041(4)(a)1): GAO (Ch. 9, p. 90), Circular A-4 (Ch. 7, p. 27), and RFA Guide (Ch. 1, p. 15) demand data-driven counts, segmented by entity type (e.g., bars vs. music venues). The city didn't estimate or categorize affected venues.

(C) No Economic Impact (§ 166.041(4)(a)2): GAO (Ch. 3, p. 31), Circular A-4 (Ch. 2, p. 5), and RFA Guide (Appendix M, p. 201) require quantified revenue losses (e.g., gigs canceled) and achievability tests (e.g., costs >10% sales = "Stress"). There must be a BIE reflecting this.

(D) No Compliance Costs (§ 166.041(4)(a)3): GAO (Ch. 10, p. 100), Circular A-4 (Ch. 7, p. 27), and RFA Guide (Ch. 2, p. 37) mandate cost estimates (e.g., \$10k–\$50k soundproofing) and alternatives to minimize burden (e.g., waivers).

² Fla. Stat. § 166.041(4)(a) mandates a BIE with six elements: public purpose (§ 166.041(4)(a)), number of businesses impacted (§ 166.041(4)(a)1), direct economic impact (§ 166.041(4)(a)2), compliance costs (§ 166.041(4)(a)3), new fees (§ 166.041(4)(a)4), and municipal costs (§ 166.041(4)(a)5).

• GAO-20-195G, Circular A-4, OECD, and the RFA Guide set global standards—structured estimates, stakeholder input, risk analysis, entity segmentation, and alternatives—which the city must meet for a "good faith" BIE. It didn't.

³ OMB circular A-4 : <https://whitehouse.gov/wp-content/uploads/2023/11/CircularA-4.pdf>

• GAO-20-195G Cost Estimating and Assessment Guide <https://www.gao.gov/assets/gao-20-195g.pdf>

• Regulatory Impact Analysis - OECD https://www.oecd.org/en/publications/regulatory-impact-analysis_9789264162150-en.html

• U.S. Small Business Administration, A GUIDE FOR GOVERNMENT AGENCIES How to Comply with the Regulatory Flexibility Act , August 2017 : <https://advocacy.sba.gov/wp-content/uploads/2019/07/How-to-Comply-with-the-RFA-WEB.pdf>

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(E) No Fee Details (§ 166.041(4)(a)4): GAO (Ch. 7, p. 60) and Circular A-4 (Ch. 7, p. 27) require fee breakdowns (e.g., fines). There must be a BIE reflecting this.

(F) No Municipal Costs (§ 166.041(4)(a)5): GAO (Ch. 10, p. 100) and Circular A-4 (Ch. 7, p. 27) demand enforcement cost estimates. Nothing from the city.

(G) No Stakeholder Input: OECD (Ch. 9, p. 9), Circular A-4 (Ch. 1, p. 4), and RFA Guide (Ch. 1, p. 19; Ch. 4, p. 51) require venue feedback via outreach as a matter of both globally and generally accepted principle (e.g., SBREFA panels). The city ignored them.

(H) No Risk Analysis: As a matter of both globally and generally accepted principle, GAO (Ch. 12, p. 139), Circular A-4 (Ch. 11, p. 74), and RFA Guide (Ch. 1, p. 11) mandate uncertainty modeling (e.g., fine frequency) and threshold analysis for impact significance. There must be a BIE reflecting this.

(I) No Documentation: GAO (Ch. 13, p. 167), Circular A-4 (Ch. 13, p. 82), and RFA Guide (Ch. 1, p. 13) insist on transparency with a “factual basis.” The city’s non-existent data to support a responsibly calculated BIE so as to avoid incurring economic harms is concerning.

(J) Implication: The city disregarded § 166.041(4)(a)’s mandates and global norms —GAO’s structure (Ch. 3, p. 31), Circular A-4’s rigor (Ch. 2, p. 5), OECD’s consultation (Ch. 9, p. 9), and RFA Guide’s entity focus (Ch. 1, p. 15) and alternatives (Ch. 2, p. 37)—leaving venue impacts (revenue, retrofits, culture) and enforcement costs unquantified, untested, and opaque.

(iii) Adverse Inference: By dodging these standards, the city infers it’s hiding Ordinance 2025-05’s crippling toll on venues—evidenced by no segmentation (RFA Ch. 1, p. 15), no achievability analysis (Appendix M, p. 201), and no alternatives (Ch. 2, p. 37)—gutting the BIE’s purpose with an unsubstantiated justification for this ordinance

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(3) DEFAULT CLAUSE:

All of the foregoing and ensuing premise of *qui tacet consentire videtur* and *The Administrative Default At Common Law* shall apply to this sworn *Finding of Fact In Administrative Record*.

(4) SEVERABILITY:

In the event any part of (1) or (2) is held to be invalid for any reason, or any interpretation or reference of any kind stated do not apply; or is misquoted, misinterpreted; then the application of only the part that is proven incorrect shall be invalidated and the remaining parts, the application of sources so stated, shall not be affected but shall remain in full force and shall be taken as factual including Exhibits, Memorandums whatever- from this and all previously submitted documents, etc., by the Undersigned.

Constitutionally yours, , Geoffrey Jacob Caputo

JURAT:

Sworn to (or affirmed) and subscribed before me by means of physical presence this 28th day of March, 2025, by Geoffrey Jacob Caputo, identified by Florida Drivers License C-130-290-70-305-0.

(Signature of Notary Public - State of Florida) 

(Print, Type, or Stamp Commissioned Name of Notary Public)



Deshaun Holloway
Comm.: HH 614469
Expires: Nov. 20, 2028
Notary Public - State of Florida

I attest that the preceding or attached document is a true and exact complete, and unaltered photocopy made by me of verified notice of Administrative Default at common law presented to me by the document custodian Geoffrey Jacob Caputo and to the best of my knowledge that the photocopied document is neither a vital record nor a public record certified copies of which are available from an official source other than a notary public.





Deshaun Holloway
Comm.: HH 614469
Expires: Nov. 20, 2028
Notary Public - State of Florida

II. CONCLUSIONS AT LAW OF ADMINISTRATIVE RECORD

The City of St. Pete Beach's failure to fully respond to public records request PRR2025-22 establishes an administrative default under common law principles, demonstrating both statutory violations and substantive inadequacies that undermine Ordinance 2025-05's legitimacy.

A. Legal Framework

1. Statutory Obligations

Florida's Public Records Act imposes explicit obligations on government agencies:

a. Fla. Stat. § 119.07(1)(a) mandates that agencies permit inspection and copying of records "at any reasonable time, under reasonable conditions." While this provides flexibility, it does not authorize indefinite delay or selective response.

b. Fla. Stat. § 119.07(1)(d) requires custodians to redact exempt portions but provide the remainder, not withhold entire categories of documents.

c. Fla. Stat. § 119.07(1)(e) demands citation of statutory exemptions when withholding records, which the city did not provide for DR3, DR4, and DR6.

d. Fla. Stat. § 166.041(4)(a) requires municipalities to prepare Business Impact Estimates with specific elements before adopting certain ordinances, including public purpose statements and economic impact analysis—documentation the city failed to produce.

2. Common Law Principles

a. Fla. Stat. § 2.01 incorporates English common law of general nature, including maxims like *qui tacet consentire videtur* ("he who is silent appears to consent"), when not inconsistent with statutory law.

b. The Florida Supreme Court in *State v. Ashley* confirmed that common law principles persist unless expressly abrogated by statute—Chapter 119 creates no barrier to applying common law defaults for non-responsive agencies.

c. *Vacation Ventures v. Holiday Promotions* establishes that silence can shift the burden of proof, creating evidentiary consequences for non-responsive parties—a principle directly applicable to the city's selective silence.

B. Analysis of Non-Compliance

1. Procedural Violations

a. The city's failure to respond for over 30 days (February 5 to March 8) violates the "reasonable time" standard under *Fla. Stat. § 119.07(1)(a)* and *Tribune Co. v. Cannella*, which prohibits automatic delays interfering with prompt access.

b. Even after the *Notice of Fault*, the city's partial response provided on *March 15* failed to address three entire document categories (DR3, DR4, DR6), constituting ongoing non-compliance under *Consumer Rights, LLC v. Bradford County*, which demands good faith responses.

c. The city's failure to provide the requested tally sheet marking non-existent documents with zeros violates *Fla. Stat. § 119.07(1)(c)*'s *good faith* requirement by obscuring whether documents exist or are being improperly withheld.

2. Substantive Inadequacies

a. DR1 (Health Impact Studies): The city provided only RWB-focused 2023 data, not the city-wide health trends claimed in the agenda. Under *Public Health Trust v. Valcin*, this selective disclosure permits an adverse inference that no broader health crisis exists.

b. DR2 (Community Feedback): Only 2023 RWB complaints were provided, not multi-year or city-wide feedback, allowing an inference under *Valcin* that no broad community consensus exists.

c. DR3 (Economic Impact Assessments): Complete non-production of hedonic studies permits an inference that no data supports claimed property value decreases.

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d. DR4 (Legal Memos): The singular Catalano memo fails to address city-wide application or constitutional concerns, suggesting no robust legal foundation exists.

e. DR5 (Enforcement Records): Limited RWB and outdated 2007 data cannot substantiate a current, city-wide enforcement need.

f. DR6 (Business Impact Estimates): The absence of any BIE documentation violates Fla. Stat. § 166.041(4)(a) and suggests the city is concealing the ordinance's potential for economic harm to venues.

C. Administrative Default Established

1. Default Mechanism

a. The Administrative Default at Common Law process is founded on parallel principles to other administrative defaults in Florida law, such as Fla. Admin. Code R. 28-106.111(4), which treats non-response as waiver, and tax assessment defaults under Fla. Admin. Code R. 12-6.003(3), which finalize matters when parties fail to respond.

b. Under *Elliott v. Aurora Loan Servs.*, un rebutted affidavits establish facts for the affiant—here, the verified notice details the city's non-compliance, creating a record the city has not contested.

c. The common law maxim *qui tacet consentire videtur*, applied in modern contexts through cases like *Vacation Ventures*, operates to treat the city's silence on key documents as *tacit acquiescence* that such documents either do not exist or would contradict their claims.

2. Consequences of Default

a. The city's non-response to DR3, DR4, and DR6, and inadequate response to DR1, DR2, and DR5, constitutes *tacit admission* under common law that:

- i.** No city-wide health crisis exists (DR1)
- ii.** No broad community consensus supports the ordinance (DR2)
- iii.** No economic data links noise to property values (DR3)

- iv.** No comprehensive legal foundation supports the ordinance's scope (DR4)
- v.** No pervasive enforcement need exists (DR5)
- vi.** The purported/potential BIE lacks factual basis as required by *Fla. Stat. § 166.041(4)(a)* (DR6)

b. These admissions undermine the factual and legal predicates claimed in the January 28, 2025, agenda packet, rendering Ordinance 2025-05 procedurally deficient and substantively unsupported.

D. Available Remedies

1. Administrative Remedies

a. Mediation: *Fla. Stat. § 16.60* establishes the Attorney General's mediation program specifically for public records disputes, providing an efficient resolution mechanism.

b. Government Conflict Resolution: *Fla. Stat. § 164.1051* requires mediation for governmental disputes, including those related to ordinances.

2. Judicial Remedies

a. Mandamus: To compel production of withheld records under *Fla. Stat. § 119.07*. The administrative default strengthens this claim by documenting the city's persistent non-compliance.

b. Declaratory Relief: To address the procedural deficiencies in the BIE process under *Fla. Stat. § 166.041(4)(a)*, leveraging the adverse inferences established through ADACL.

c. Injunctive Relief: To prevent enforcement of an ordinance lacking factual or legal foundation, as demonstrated by the city's silence on critical supporting documentation.

d. Attorney's Fees: *Fla. Stat. § 119.12* mandates fee awards when agencies unlawfully withhold records, a determination strengthened by the documented non-compliance through the ADACL process.

E. Conclusion

The Administrative Default at Common Law has effectively documented and formalized the City of St. Pete Beach's persistent failure to fully respond to public records request PRR2025-22. Under common law principles incorporated through *Fla. Stat. § 2.01* and reinforced by modern cases like *Vacation Ventures and Elliott*, this silence constitutes tacit admission that critical documentation allegedly supporting *Ordinance 2025-05* either does not exist or would contradict the city's public claims. These admissions by default reveal substantive and procedural deficiencies that undermine the ordinance's validity and open multiple avenues for relief, from administrative remedies to judicial intervention. The ADACL process has established a clear record of non-compliance that strengthens subsequent enforcement actions under Chapter 119 and challenges to the ordinance itself.

Citations:

Cases:

Elliott v. Aurora Loan Servs., LLC, 31 So. 3d 304 (Fla. 4th DCA 2010)

Vacation Ventures, Inc. v. Holiday Promotions, Inc., 687 So. 2d 286 (Fla. 5th DCA 1997)

Tribune Co. v. Cannella, 458 So. 2d 1075 (Fla. 1984)

Siegmeister v. Johnson, 240 So. 3d 70 (Fla. 1st DCA 2018)

Public Health Trust of Dade Cnty. v. Valcin, 507 So. 2d 596 (Fla. 1987)

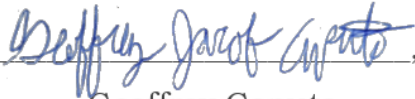
Consumer Rights, LLC v. Bradford County, 153 So. 3d 394 (Fla. 1st DCA 2014)

State v. Ashley, 701 So. 2d 338 (Fla. 1997)

Statutes:

Fla. Stat. § 119.07 (2023)

Fla. Stat. § 166.041(4)(a) (2023)

Constitutionally Yours, Signed , 03/26/2025
Geoffrey Caputo

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(iii): State v. Ashley, 701 So. 2d 338 (Fla. 1997): Affirms common law's persistence unless abrogated by statute.

(iv): Wilson v. Arkansas, 514 U.S. 927 (1995): Recognizes common law principles in Florida's legal framework.

(b):

Florida law explicitly incorporates English common law through *Fla. Stat. § 2.01*, making it binding unless contradicted by federal or state law. *Fla. Stat. § 775.01* extends this to criminal matters where statutes are silent, signaling a broad legislative intent to rely on common law. In *State v. Ashley*, the Florida Supreme Court confirmed that common law remains operative absent statutory override, while *Wilson v. Arkansas* illustrates its application by referencing historical common law principles (e.g., knock-and-announce rules). This framework mandates that public officials recognize English common law as authoritative in areas not addressed by statute, spanning civil, criminal, and administrative contexts.

(c): Florida public officials must recognize English common law as a binding legal authority where statutes are silent, as mandated by *Fla. Stat. § 2.01* and *Fla. Stat. § 775.01*, and affirmed by judicial precedent.

(2.1) Do common law maxims, as adopted in Florida, interpret silence as consent or an admission of fact?

(a):

(i) Qui tacet consentire videtur ("He who is silent appears to consent").

(ii) Tacita quaedam habentur pro expressis ("Things silent are sometimes considered as expressed").

(iii) Ejus est non nolle, qui potest velle ("He who may consent tacitly, may consent expressly").

(iv) Vacation Ventures v. Holiday Promo, 687 So. 2d 286 (Fla. 5th DCA 1997): Silence shifted the burden of proof.

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(v) Horowitz v. Laske, 855 So. 2d 169 (Fla. 5th DCA 2003): Silence interpreted as acquiescence in a contractual dispute.

(b): English common law maxims, adopted via Fla. Stat. § 2.01, establish that silence can signify consent or admission when a party has the chance to object but does not. Qui tacet consentire videtur underpins this principle, suggesting silence implies agreement. Florida courts have embraced this, as seen in *Vacation Ventures v. Holiday Promo*, where the court shifted the burden due to a party's silence, and *Horowitz v. Laske*, where silence was deemed acquiescence in a contract dispute. These cases reflect the maxims' integration into Florida law, showing silence as legally significant in the absence of rebuttal.

(c): Established common law maxims, recognized in Florida, interpret silence as consent or an admission of fact when a party fails to respond, as evidenced by judicial application.

(2.2) Do partial responses to certain document requests undermine the application of silence as consent for unanswered categories?

(a)

(i) Public Health Trust of Dade County v. Valcin, 507 So. 2d 596 (Fla. 1987): Adverse inferences apply when material evidence is withheld.

(ii) Nard, Inc. v. DeVito Contracting & Supply, Inc., 769 So. 2d 1138 (Fla. 2d DCA 2000): Unrebutted affidavits are accepted as true.

(b) A selective response while omitting other documents suggests strategic withholding rather than good-faith compliance. Per *Vacation Ventures (Id.)*, silence on specific points, not total non-response, triggers consent under qui tacet consentire videtur. *Valcin* supports adverse inferences for withheld material, and *Nard* reinforces this with the ADACL affidavit's documentation of non-compliance, establishing a pattern of evasion.

(c) A partial response does not negate silence as consent for unanswered categories; it reinforces default on those specific points.

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(3) Are Blackstone's Commentaries considered an authoritative source for interpreting common law maxims in Florida?

(a): Blackstone's Commentaries: A seminal work on English common law, frequently cited by Florida courts.

(i): State v. Mitchell, 245 So. 2d 618 (Fla. 1971): References Blackstone for common law interpretation.

(ii): Wilson v. Arkansas, 514 U.S. 927 (1995): Cites Blackstone as influential in Florida's legal system.

(b): Florida courts regularly turn to Blackstone's Commentaries to elucidate common law principles, affirming its authority. In *State v. Mitchell*, the court relied on Blackstone to define common law doctrines, while *Wilson v. Arkansas* used it to trace the origins of legal rules like knock-and-announce, demonstrating its relevance in Florida. Adopted through Fla. Stat. § 2.01, Blackstone's work provides a foundational lens for interpreting maxims, bridging historical English law to modern Florida practice.

(c): Florida law recognizes Blackstone's Commentaries as authoritative for interpreting common law maxims, as shown by consistent judicial reliance.

(4) Does Florida law validate common law maxims based on their historical custom and usage?

(a):

(i) Fla. Stat. § 2.01: Incorporates English common law, including its maxims.

(ii) Blackstone's Commentaries, Book I, Section III: "The only method of proving, that this or that maxim is a rule of the common law, is by showing that it hath been always the custom to observe it."

(iii) Vacation Ventures v. Holiday Promo, 687 So. 2d 286 (Fla. 5th DCA 1997): Applies maxims based on historical use.

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(iii) Horowitz v. Laske, 855 So. 2d 169 (Fla. 5th DCA 2003): Recognizes maxims' customary application.

(b) Per Fla. Stat. § 2.01, Florida adopts English common law, including maxims rooted in historical custom, as Blackstone articulates in Book I, Section III. This custom-based validation is evident in *Vacation Ventures v. Holiday Promo*, where the court applied *qui tacet consentire videtur* due to its longstanding use, and *Horowitz v. Laske*, where silence as consent reflected historical practice. These cases illustrate that Florida courts uphold maxims when their consistent historical application is demonstrated, aligning with Blackstone's standard.

(c) Florida law recognizes common law maxims based on their historical custom and usage, as supported by Fla. Stat. § 2.01 and judicial precedent.

(5.1) Does the concept of default admissions in ADACL align with Florida's administrative law practices?

(a)

(i) Fla. Admin. Code R. 28-106.111(4): "Failure to file a request for a hearing within the time prescribed shall constitute a waiver of the right to a hearing."

(ii) Fla. Admin. Code R. 12-6.003(3): "If the taxpayer does not timely file a protest, the assessment or refund denial shall become final."

(iii) Fla. Stat. § 212.12(5): "The department may use ... any available data to estimate the tax due."

(iv) Dep't of Revenue v. Vanjaria Enters., Inc., 675 So. 2d 252 (Fla. 5th DCA 1996): Upholds default assessments for non-response.

Florida Dep't of Revenue v. New Sea Escape Cruises, Ltd., 894 So. 2d 954 (Fla. 2005): Affirms assessments based on available data when records are withheld.

(b) Florida's administrative law explicitly supports default admissions when parties fail to act. *Fla. Admin. Code R. 28-106.111(4)* deems non-response a waiver of hearing rights, while *Fla. Admin. Code R. 12-6.003(3)* finalizes assessments absent a timely protest. Fla. Stat. § 212.12(5) permits tax estimations when taxpayers withhold data, effectively a default admission. In *Dep't of Revenue v. Vanjaria Enters., Inc.*, the court upheld a default assessment due to non-compliance, and *Florida Dep't of Revenue v. New Sea Escape Cruises, Ltd.* reinforced this by affirming estimates based on available evidence. ADACL's

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use of default admissions—treating silence as consent or fact admission—mirrors these practices, leveraging non-response as a procedural consequence. These authorities collectively demonstrate that defaults are a recognized and enforceable mechanism in Florida’s administrative actions, supporting ADACL’s framework.

(c) The concept of default admissions in ADACL is consistent with Florida’s established administrative law practices, as evidenced by administrative codes and supporting case law.

(5.2) Are administrative defaults limited to codified contexts, making their extension to public records requests improper?

(a) Fla. Stat. § 2.01 (*common law in effect unless abrogated*) , Vanjaria, Nard, Inc. (Id.)

(b) Administrative defaults reflect a universal principle of consequences for non-response, per Fla. Stat. § 2.01. Vanjaria demonstrates this in tax contexts, applicable to public records due to structural similarities (formal demands with response duties). The ADACL affidavit, per Nard, provides specific evidence of non-compliance, extending general principles to this context.

(c) Administrative defaults in ADACL align with Florida law and extend appropriately to public records requests.

(6) Does ADACL improperly depend on judicial default judgments under Florida Rule of Civil Procedure 1.500?

(a)

(i) Florida Rule of Civil Procedure 1.500: Governs judicial default judgments when a party fails to plead or defend in court.

(ii) Fla. Admin. Code R. 28-106.111(4): Establishes waiver of rights for non-response in administrative proceedings.

(iii) Dep’t of Revenue v. Vanjaria Enters., Inc., 675 So. 2d 252 (Fla. 5th DCA 1996): Upholds administrative defaults without judicial intervention.

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(b) ADACL operates in an administrative, not judicial, context, distinguishing it from Florida Rule of Civil Procedure 1.500, which applies solely to court proceedings requiring judicial oversight. Instead, ADACL aligns with administrative mechanisms like Fla. Admin. Code R. 28-106.111(4), where failure to respond waives rights without court involvement. *Dep't of Revenue v. Vanjaria Enters., Inc.* exemplifies this, affirming an administrative assessment finalized due to non-response, independent of Rule 1.500. ADACL's reliance on common law maxims (e.g., *qui tacet consentire videtur*) and administrative waiver further separates it from judicial defaults, rooting it in agency authority rather than courtroom procedure.

(c) ADACL does not improperly rely on judicial default judgments under Florida Rule of Civil Procedure 1.500; it is grounded in administrative law and common law principles, distinct from judicial processes.

(7.1) Is ADACL legally valid despite being an unconventional and experimental process?

(a)

(i) Fla. Stat. § 2.01: Adopts English common law where statutes are silent.

(ii) Fla. Stat. § 119.07(1)(a): "Every person who has custody of a public record shall permit the record to be inspected and copied ... at any reasonable time."

(iii) Fla. Admin. Code R. 28-106.111(4): Waiver of rights for failure to request a hearing.

(iv) Fla. Admin. Code R. 12-6.003(3): Finalizes assessments absent timely protest.

(v) Fla. Stat. § 212.12(5): Allows tax estimates from available data.

(vi) *Dep't of Revenue v. Vanjaria Enters., Inc.*, 675 So. 2d 252 (Fla. 5th DCA 1996): Upholds administrative defaults.

(viii) *Florida Dep't of Revenue v. New Sea Escape Cruises, Ltd.*, 894 So. 2d 954 (Fla. 2005): Affirms defaults based on available data.

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(ix) Elliott v. Aurora Loan Servs., LLC, 31 So. 3d 304 (Fla. 4th DCA 2010): Permits adverse inferences from un rebutted affidavits.

(b) ADACL's unconventional nature does not negate its validity, as it builds on established legal foundations. Fla. Stat. § 2.01 allows common law to fill statutory gaps, such as the lack of specific remedies for prolonged silence under Fla. Stat. § 119.07(1)(a) (public records access). ADACL's default mechanism aligns with Fla. Admin. Code R. 28-106.111(4) and Fla. Admin. Code R. 12-6.003(3), which treat non-response as waiver or finalization, and Fla. Stat. § 212.12(5), which permits agency action based on available data. Cases like Dep't of Revenue v. Vanjaria Enters., Inc. and Florida Dep't of Revenue v. New Sea Escape Cruises, Ltd. validate administrative defaults, while Elliott v. Aurora Loan Servs., LLC supports drawing adverse inferences from silence—consistent with ADACL's approach. Though experimental, ADACL creatively applies these principles, making it a legitimate administrative remedy.

(c) The ADACL process is valid despite its unconventional and experimental nature, as it is supported by Florida's common law adoption, administrative law practices, and judicial precedent.

(7.2) Will courts reject ADACL for lacking precedent, favoring Chapter 119 remedies?

(a)

(i) State v. Ashley, 701 So. 2d 338 (Fla. 1997), Fla. Stat. § 2.01: Common law persists absent statutory repeal.

(ii) City of Daytona Beach v. Del Percio : Common law viable alongside statutes if non-conflicting.

(b) Fla. Stat. § 2.01 and State v. Ashley affirm common law's role where statutes are silent, like pre-litigation defaults. Del Percio supports ADACL as complementary to Chapter 119, addressing evidentiary gaps (e.g., non-compliance documentation) rather than conflicting with judicial remedies.

(c) Courts should accept The ADACL as a valid common law supplement to statutory remedies.

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(7.3) Is ADACL redundant given Chapter 119's mandamus and fee provisions?

(a)

(i) **Fla. Stat. § 119.07(1)(a):** Requires prompt access, silent on pre-litigation defaults.

(ii) **State v. Ashley, Id.**

(b) Chapter 119 lacks pre-litigation consequences for partial compliance or refusal to admit non-existence (e.g., tally sheet zeros), a gap *State v. Ashley* allows common law to fill. ADACL's three-stage process creates an evidentiary record enhancing mandamus, not duplicating it.

(c) ADACL is not redundant; it addresses a distinct pre-litigation gap.

(7.3) Will courts require exhaustion of Chapter 119 remedies before ADACL inferences?

(a)

(i) **Fla. Stat. § 166.041(4)(a):** Mandates Business Impact Estimates.

(ii) **Nard, Inc., Id:** Unrebutted affidavits establish facts.

(b) ADACL's three-stage process (Courtesy, Fault, Default) documents exhaustion efforts, per *Nard*. **Chapter 119 cannot compel admission of non-existence, a gap ADACL fills,** especially for Fla. Stat. § 166.041(4)(a) violations (e.g., missing BIE), providing specific statutory grounds for inferences.

(c) ADACL satisfies exhaustion via its process and addresses unique gaps.

(7.4) Does ADACL's goal of securing judicial recognition of an agency's refusal to confirm document non-existence (e.g., by marking "zeros" on a tally sheet) when no exemptions are claimed render it invalid, given mandamus's traditional role under Chapter 119?

(a) **Fla. Stat. § 119.07(1)(a):** Mandates prompt access to records but is silent on compelling admissions of non-existence.

(a) **Fla. Stat. § 119.07(1)(e):** Requires citation of exemptions for withholding, implying a duty to clarify non-existence when no exemptions apply.

(b) **State v. Ashley, 701 So. 2d 338 (Fla. 1997):** Common law fills statutory gaps unless abrogated.

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(c) **Nard, Inc. v. DeVito Contracting & Supply, Inc., 769 So. 2d 1138 (Fla. 2d DCA 2000):** Unrebutted affidavits establish facts, supporting evidentiary recognition.

(d) **Elliott v. Aurora Loan Servs., LLC, 31 So. 3d 304 (Fla. 4th DCA 2010):** Uncontradicted affidavits support findings, applicable to judicial recognition of non-compliance.

(b) Mandamus under Chapter 119 typically compels production of existing records or forces an agency to justify withholding via exemptions (Fla. Stat. § 119.07(1)(e)). However, it lacks a mechanism to address an agency's refusal to affirmatively state that requested records (e.g., health studies, BIEs) do not exist, especially when no exemptions are claimed. This refusal—evidenced by the city's failure to mark "zeros" despite multiple notices—creates a transparency gap that Fla. Stat. § 119.07(1)(a) doesn't resolve. Per *State v. Ashley*, common law can bridge this gap. ADACL's three-stage process documents this refusal under oath (Nard), enabling courts to recognize it as a fact (Elliott), not just compel production. This evidentiary role distinguishes ADACL from mandamus, aligning with its unconventional yet valid purpose of establishing non-existence rather than forcing disclosure.

(c) ADACL's focus on judicial recognition of non-existence is legally valid, addressing a gap mandamus cannot fill, supported by common law and evidentiary principles.

(8.1) Can adverse inferences be drawn about the legitimacy of an agency's ordinances or actions due to its non-response, partial fulfillment, lack of relevant documents, and non-compliance with Chapter 119 protocols?

(a)

(i) **Fla. Stat. § 119.07(1)(a):** Mandates public records be open for inspection at reasonable times.

(ii) **Fla. Stat. § 119.07(1)(c):** Requires prompt acknowledgment and good faith response.

(iii) **Fla. Stat. § 119.07(1)(d):** Instructs redaction of exempt portions, providing remainder.

(iv) **Fla. Stat. § 119.07(1)(e):** Requires statutory citation for complete exemptions.

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(v) Fla. Stat. § 119.07(1)(f): Mandates written explanation for exemptions.

(vi) Fla. Stat. § 119.12: Imposes attorney's fees for unlawful withholding.

(vii) Tribune Co. v. Cannella, 458 So. 2d 1075 (Fla. 1984): Prohibits automatic delays.

(viii) Promenade D'Iberville, LLC v. Sundy, 145 So. 3d 980 (Fla. 1st DCA 2014): Limits delays to retrieval and redaction.

(ix) Consumer Rights, LLC v. Bradford County, 153 So. 3d 394 (Fla. 1st DCA 2014): Condemns unjustified delays and demands good faith.

(x) Siegmeister v. Johnson, 240 So. 3d 70 (Fla. 1st DCA 2018): Affirms reasonable response times (e.g., two weeks).

(xi) Executive Office of Governor v. Florida Center for Government Accountability, Inc., -So. 3d - (Fla. 1st DCA 2025): Upholds two-week partial production as reasonable.

(xii) Elliott v. Aurora Loan Servs., LLC, 31 So. 3d 304 (Fla. 4th DCA 2010): Permits adverse inferences from un rebutted affidavits.

(xiii) Heller v. Doe, 509 U.S. 312 (1993): Requires rational basis for governmental action.

(xiv) Craig v. Boren, 429 U.S. 190 (1976): Demands substantial relation to a government interest.

(xv) Loving v. Virginia, 388 U.S. 1 (1967): Requires compelling interest and narrow tailoring.

(b) Agency opaqueness—non-response, partial fulfillment, irrelevant production, and non-compliance with Fla. Stat. § 119.07(1)(a) (prompt access), (1)(c) (good faith), (1)(d)-(f) (redaction and explanation)—violates statutory duties, as reinforced by *Tribune Co. v. Cannella* (no delays), *Promenade D'Iberville* (limited delays), and *Consumer Rights* (good faith required). *Siegmeister* and *Executive Office of Governor* establish two weeks as a reasonable response benchmark, yet persistent silence exceeds this. Under *Elliott v. Aurora*

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Loan Servs., un rebutted affidavits asserting non-existence of records provide prima facie evidence, permitting adverse inferences. This opaqueness suggests no documentation supports the agency's actions, undermining their legitimacy under *Heller v. Doe* (rational basis), *Craig v. Boren* (substantial relation), and *Loving v. Virginia* (compelling interest, narrowly tailored), as no evidence rebuts the inference of arbitrariness. Fla. Stat. § 119.12 further penalizes such withholding, bolstering the inference's weight.

(c) Agency opaqueness allows adverse inferences that their ordinances or actions lack a legitimate basis, as supported by Chapter 119 violations, Elliott's evidentiary rule, and constitutional scrutiny standards.

(8.2) Do courts require bad faith beyond silence, with partial responses negating default?

(a) *Valcin, Id.* Adverse inferences from withheld evidence.

(b) *Valcin* focuses on control over evidence, not bad faith, applicable to withheld critical categories, Partial responses to less material requests versus omission of key documents (*Ex. Business Impact Estimates/Public Health Data/Declining Property Values*) suggest strategic withholding, not good faith.

(c) Adverse inferences are justified by strategic withholding, not requiring bad faith.

(9) CONCLUSION:

(a) The Administrative Default at Common Law (ADACL) process, while unconventional, is a valid administrative remedy substantiated by a robust interplay of Florida statutes, common law principles, and judicial precedent. Florida public officials must recognize

English common law as binding under Fla. Stat. § 2.01 and § 775.01, as affirmed by *State v. Ashley* and *Wilson v. Arkansas* [(1)]. This includes established maxims like *qui tacet consentire videtur*, which interpret silence as consent or admission, as applied in *Vacation Ventures v. Holiday Promo* and *Horowitz v. Laske* [(2)]. Florida law further acknowledges *Blackstone's Commentaries* as authoritative for interpreting these maxims (*State v. Mitchell*, *Wilson v. Arkansas*) [(3)] and validates them based on historical custom and usage, per *Blackstone's* own standard (*Vacation Ventures*, *Horowitz*) [(4)].

PRR2025-22 Thank You Letter For 2nd Partial & Reactive Production

Amber LaRowe
City Clerk
155 Corey Avenue
St. Pete Beach, FL 33706
April 7, 2025

USPS Cert: 9589 0710 5270 1053 4637 02

CORRESPONDENCE:

Geoffrey Caputo
4604 49TH ST. N #140
Kenneth City, FL 33709
floridarepublic@gmail.com

Greetings City Clerk LaRowe, (*Notice To Principle Is Notice To Agent/Notice To Agent Is Notice To Principle*):

Deputy Clerk Wilson's email with a link to "Additional Records" on March 28, 2025, was a treat—dropped just hours after a "FB Blast" video documenting the City's Administrative Default at Common Law. This, as a matter of only the most exemplary good faith §119.07(1)(c) protocols, followed the first partial/reactive production on March 11—one (1) day after receiving the Notice of Fault, and only a mere 32 days of City silence post-PRR2025-22. This second gesture of compliance should be a model in American civics classes as a "*Paragon of Government Transparency*"—a masterclass in improvising, adapting, and overcoming under pressure.

Attached, for clerical amusement, is *The Cascade of Absence: City of St. Pete Beach Noise Ordinance Documents Request PRR2025-22*. It's not my finest work, but it's worthy of an honorable mention. This coffee table/restroom read (*depending on the time of day*) explains why the records can't prop up Ordinance 2025-05's claims from the January 28, 2025, Agenda Packet—and spotlights the gaps where documents should be. Up front, for convenience and sautéed in a transparency and good faith bisque, is the "*Good Ole Tally Table*" on the menu - begging for those sweet "zeros", (0's) to mark non-existence or as a "non-record" as they say in United States Jurisprudence. Spoiler: they're still missing.

The manifold oversights in affirming the state of documents with 'zeros' for DR3, DR4, and DR6 (or any reasonable likeness in place of the tally table) do hinder the proving of Ordinance 2025-05's foundation, transgressing against the statutes of Florida, even Fla. Stat. § 119.07(1)(a), (c), (e), (f) and § 119.01(1). This veil of darkness doth weaken the trust of the people, as the Second District Court of Appeal hath proclaimed in Times Publishing Co. v. Williams, 222 So. 2d 470, 473 (Fla. 2d DCA 1969): 'Verily, the public hath a right to know the deeds of their rulers, and this right standeth to thwart such governance as engendereth mistrust.' Mediation doth loom like a tempest o'er the horizon—prithee, take heed of this portent, lest thou be found unprepared.

Constitutionally Yours,



Geoffrey Jacob Caputo, 04/07/2025

ATTACHED:

The Cascade of Absence : City of St Pete Beach Noise Ordinance Documents Request PRR2025-22

cc: Mayor Petrilla, Karen Marriott, District 1 / Lisa Robinson, District 2 / Betty Rzewnicki, District 3 / Joe Moholland District 4 / Ralf Brooks, Interim City Attorney

Geoffrey Jacob Caputo
4604 49th St. N #140, Kenneth City, FL 33709
floridarepublic@gmail.com
(813) 968-9300
March 28, 2025

**NOTE: THIS IS A DRAFT ONLY, AND
SERVES THE FUNCTION OF A “NOTICE
OF INTENT FOR MEDIATION”.**

**- AT THIS TIME , THERE IS NO PENDING
MEDIATORY ACTION FILED.**

- SUBJECT TO CHANGE WITH NOTICE

[Mediator's Name/Title]

Florida Attorney General's Mediation Programß

[Address]

[City, State, ZIP]

**RE: URGENT MEDIATION REQUEST - CITY OF ST. PETE BEACH'S
VIOLATIONS OF PUBLIC RECORDS LAW (PRR2025-22)**

Greetings [Mediator's Name],

This mediation petition seeks resolution of the City of St. Pete Beach’s violations of Florida’s Public Records Law in response to my Public Records Request PRR2025-22, submitted on February 2, 2025. The City’s delayed, incomplete, and selective responses—particularly their failure to address document categories DR3, DR4, and DR6 or complete the requested tally sheet—constitute an administrative default under common law principles, as no statutory remedy exists to compel the City to admit document non-existence. I request that you, as mediator, formally recognize this default or, alternatively, direct the City to clarify the status of the requested documents to remedy specific violations of Chapter 119, Florida Statutes.

I. FACTUAL TIMELINE & PROCEDURAL HISTORY

Key Parties:

Requester: Geoffrey Jacob Caputo (Undersigned)

Respondents:

Amber LaRowe, City Clerk

Adrian Petrila, Mayor

City Commissioners (Marriott, Robinson, Rzewnicki, Moholland)

Ralf Brooks, Interim City Attorney

CHRONOLOGY OF EVENTS:

(1) **Jan 23, 2025 (Exhibit A):** Gretchen Vose issued an opinion justifying Ordinance 2025-05 under the "plainly audible" standard.

(2) **January 28, 2025 (Exhibit B):** The City published an agenda packet for Ordinance 2025-05's first reading, pages 220, 223, asserting six justifications: (1) noise-related health impacts, (2) community quality-of-life complaints, (3) declining property values, (4) legal defensibility, (5) enforcement necessity, and (6) business impact compliance. Note: My request emphasized the need for a tally of existent and non-existent records ("zeros") to substantiate these claims within a reasonable time, even forgoing a cost estimate for expediency.

(3) **February 2, 2025 (Original Document Request - Exhibit C / USPS 70202450000103009908):** Undersigned submitted PRR2025-22 via USPS Certified Mail to City Clerk LaRowe, Mayor, Commissioners, and City Attorney (all served parties copied hereafter; tracking numbers available). The request sought six document categories (DR1–DR6)—health impact studies, community feedback, economic impact assessments, legal memos,

enforcement records, and a Business Impact Estimate (BIE) per Fla. Stat. § 166.041(4)(a) —with a tally sheet (Exhibit A, p. 8) for marking existence ("yes" or "no"), non-existence ("zeros"), and exemptions (2021–2025), plus an affidavit in negative averment denying DR1–DR6's existence unless proven (Exhibit B).

- (4) **February 5, 2025:** The City received PRR2025-22, initiating a 41-day response period (Exhibit C).
- (5) **March 8, 2025 (Notice of Fault (NOF) - Exhibit D / USPS 70202450000102775118):** After no response within 30 days, Undersigned issued a Notice of Fault (NOF), alleging non-compliance for failing to address the request, including the tally sheet's columns (Exhibit p. 8/Ex.C).
- (6) **March 10, 2025:** NOF received by Clerk.
- (7) **March 11, 2025 (1st Instance of "Reactive Compliance" - Exhibit E/1-7):** One day after receipt of NOF, The City provided a partial response via JustFOIA (7 documents—DR1, DR2.1–.4, DR5; see SPB_DOCS_SUMMARY), addressing only DR1, DR2, and DR5 with limited scope, omitting DR3, DR4, and DR6, and failing to complete the tally sheet despite 41 days. Clerk LaRowe claimed it was "complete," yet provided no exemptions or "zeros."
- (8) **March 13, 2025 (Thank You Letter 1 - Exhibit F/1-2 / USPS 9589071052700028534041):** Undersigned sent a Thank You Letter, noting deficiencies in DR1, DR2, and DR5, the absence of DR3, DR4, and DR6, and no "zeros" on the tally sheet, setting a March 18 deadline (extendable to April 15). Revised tally table included (E2).

(9) March 28, 2025 (Notice of Default (ADACL) Exhibit G 1-4 / USPS

70202450000102775804): Undersigned sent a Verified Notice of Administrative Default at Common Law (ADACL) with Finding of Fact in Administrative Record (FFAR)/Conclusions at Law (CLAR), Memoranda in Support of ADACL, and the incomplete tally table, asserting persistent failure. As of 3/28, nearly two months after submission, DR3 and DR4 were unaddressed, DR1, DR2, DR5, and DR6 were partial, with no exemptions, redactions, or "zeros" marked. FFAR was notarized, reserving common law tacit acquiescence rights.

(10) March 28, 2025 (A.M.): Undersigned filmed a Facebook video ("FB Blast") at the post office, posted on St. Pete Beach boards, describing the City's default.

(11) March 28, 2025, 3:41 PM (2nd Instance of "Reactive Compliance" - Exhibit H1-8):

Hours after FB Blast and nearly 1000 views, Deputy Clerk Ariana Wilson emailed eight "Additional Records" (see SPB_DOCS_SUMMARY, Exhibit I), lacking specificity or correlation to DR1–DR6 or the tally table, with partial responses failing to link local, recent studies to noise effects, property values, or quantified BIE figures. Updated tally table reflects 3/11 and 3/28 documents.

II. Adverse Inferences Resulting from City's Opacity

(1) Procedural Violations:

(a) The City's 21-business-day delay (February 5 to March 11, 2025) exceeds the 10-business-day/2-week precedent in *Executive Office of the Governor v. Florida Center for Government Accountability, Inc.* (1D2022-3507, 1st DCA) and *Siegmeister v. Johnson* (240 So. 3d 70, Fla. 1st DCA 2018), even for a tally of existent/non-existent, exempt, or redacted records.

(b) Post-NOF, the March 11 reactive response omitted DR3, DR4, and DR6, constituting ongoing non-compliance under Consumer Rights, LLC v. Bradford County (153 So. 3d 394, Fla. 1st DCA 2014), which demands good-faith responses.

(c) Failing to provide the tally sheet with "zeros" should be construed to be in violation of Fla. Stat. § 119.07(1)(c)'s good-faith requirement, by obscuring document status.

(2) Material Selectivity / Strategic Evasion: The selective response—providing less critical documents while withholding DR3, DR4, and DR6 without exemptions or "zeros"—suggests evasion. *Public Health Trust of Dade County v. Valcin* (507 So. 2d 596, Fla. 1987) allows adverse inferences when material evidence is withheld, implying these records don't exist or contradict City claims.

(3) Reactive Compliance: Responses on March 11 (post-NOF) and March 28 (day of ADACL) followed pressure, not good faith, despite the tally sheet's framework. This persists despite unsubstantiated city-wide claims in the January 28, 2025, agenda packet (Exhibit A).

III. Why It's Important for Government Entities to Clearly State Document Non-Existence

Government entities must clearly delineate whether documents exist, are in their custody, or are non-existent to uphold public records laws and governance principles. The City's refusal to do so for DR3, DR4, and DR6, despite my tally sheet, justifies mediation action and aligns with established legal norms, not a rogue theory.

(1) Transparency and Public Trust: Transparency ensures accountability, a cornerstone of Florida's constitutional right to access records (*Fla. Stat. § 119.01*). The City's ambiguity—

failing to mark "zeros" or confirm status—suggests concealment, eroding trust, especially on Ordinance 2025-05's impact.

(2) Legal Compliance and Procedural Fairness:

(a) Fla. Stat. § 119.07(1)(e) requires exemption bases with statutory citations; § 119.07(1)(f) mandates written reasons if requested. Florida courts construe such statutes liberally to favor openness: “It is well settled that the Sunshine Law, enacted for the public benefit, should be liberally construed to give effect to its public purpose” (*Zorc v. City of Vero Beach*, 722 So. 2d 891, 893, Fla. 4th DCA 1998), citing *Doran*, 224 So. 2d 693, Fla. 1969). This extends to Chapter 119, where admitting document non-existence via "zeros" on my tally sheet is a good-faith duty under § 119.07(1)(c) (*Krause v. Reno*, 366 So. 2d 1244, 1252, Fla. 3d DCA 1979: “Statutes enacted for the public benefit should be interpreted most favorably to the public,” quoting *Doran* at 699)).

(b) Federal FOIA precedent Federal FOIA precedent reinforces this duty:

- (i) *Oglesby v. United States Dep’t of the Army* (920 F.2d 57, D.C. Cir. 1990): “When an agency informs a requester that no records have been found, it must explicitly advise him that he may appeal the adequacy of the search conducted” (at 66).
- (ii) *Ruotolo v. Department of Justice, Tax Division* (28 F.3d 6, 2d Cir. 1994): “The letter concludes by advising the Ruotolos that the information sought ‘is not retrievable by means of the Tax Division’s indices’” (at 6), a quasi-"no record" response lacking appeal notice.
- (iii) These norms confirm clarity on non-existence is standard, not fringe, aligning with my request. The City’s silence therefore violates § 119.07(1)(c)’s good-faith standard.

(3) **Efficiency for All Parties:** Clarity lets me appeal or adjust my request, avoiding mediation. For the City, it reduces disputes, as federal FOIA guidance notes (FOIA Guide, 2004 Edition). Their vagueness has prolonged this process unnecessarily.

(4) **Preventing Misinformation:** Unclear responses fuel perceptions of cover-ups, amplified by my “FB Blast” (March 28, 2025). Clear statements could dispel confusion, aligning with Florida’s transparency mandate.

IV. Why the Mediator Should Formally Recognize an Administrative Default by the City of St. Pete Beach

The City’s failure establishes an administrative default under common law, as detailed in the Memoranda of Law in Support of ADACL (attached). This is of necessity due to no statutory or judicial remedy for government entity admitted document non-existence.

(1) Common Law Fills Statutory Gaps (Fla. Stat. § 2.01)

(a) **No Mandamus Remedy:** Florida Jurisprudence limits mandamus to production/ exemptions, not non-existence admissions. (*Weeks v. Golden*, 764 So. 2d 633, Fla. 1st DCA 2000; *Chandler v. City of Greenacres*, 140 So. 3d 1080, Fla. 4th DCA 2014; *Moeller v. Southeast Florida Behavioral Health Network, Inc.*, 392 So. 3d 579, Fla. 4th DCA 2024; *Town of Manalapan v. Rechler*, 674 So. 2d 789, Fla. 4th DCA 1996).

(b) **No Statutory Compulsion:** Fla. Stat. § 119.07(1)(c) requires good-faith responses but lacks provisions for preemptive tallies or "zeros" prior to cost estimates/production, leaving a gap. Florida courts correlate the term “good faith” in §119 cases with agency delays. (*Consumer Rights, LLC v. Bradford County*, 153 So.3d 394 (2014), *Promenade*

D'Iberville, LLC v. Sundy, 145 So.3d 980 (2014))

- (i) **§ 119.07(1)(a)**: Mandates reasonable access but not status clarification.
- (ii) **§ 119.07(1)(d)**: Requires redacting exempt portions, not withholding categories.
- (iii) **§ 119.07(1)(e)–(f)**: Demands exemption details, unmet for DR3, DR4, and DR6 after 32 days (*Chronology 4–5*).

(2) Common Law Principles Apply

- (a)** Fla. Stat. § 2.01 incorporates *qui tacet consentire videtur*. *State v. Ashley* (701 So. 2d 338, Fla. 1997) confirms common law persists unless abrogated; Chapter 119 poses no barrier.
- (b)** *Vacation Ventures v. Holiday Promotions* (687 So. 2d 286, Fla. 5th DCA 1997) shifts the burden via silence, applicable here.
- (c)** Statutory silence preserves common law (*Thornber v. City of Fort Walton Beach*, 568 So. 2d 914, Fla. 1990; *Irven v. Dep’t of Health & Rehab. Servs.*, 790 So. 2d 403, Fla. 2001)).

(3) Administrative Default via Tacit Acquiescence

- (1) FAC R. 28-106.111(4)**: Non-response waives objections, paralleling ADACL.
- (2) FAC R. 12-6.003(3)**: Tax defaults finalize matters for non-response.
- (3) Dep’t of Revenue v. Vanjaria Enters., Inc.** (675 So. 2d 252, Fla. 5th DCA 1996) and *Florida Dep’t of Revenue v. New Sea Escape Cruises, Ltd.* (894 So. 2d 954, Fla. 2005) uphold defaults in administrative non-judicial cases.

(4) Mediator's Ministerial Duty

(a) FAC R. 61B-80.002 and Fla. Stat. § 44.102(3) require documenting § 119.07(1) violations and facilitating resolution. Recognizing the City's default via silence (*qui tacet*) aligns with this.

(i) Violation of § 119.07(1)(c) - Failure to Respond in Good Faith and Promptly

- (A)** The City received *PRR2025-22* on February 5, 2025, but didn't respond until March 11, 2025 (36 days, or 21 business days), exceeding the 10-business-day/2-week precedent for reasonable response time (*Siegmeister v. Johnson*, 240 So. 3d 70, Fla. 1st DCA 2018).
- (B)** The "reactive compliance" (Mar. 11 & 28) from the Clerk following the pressure from NOF and ADACL does not likely comport with generally accepted conventions of good faith.
- (C)** The partial response omitted DR3, DR4, and DR6, and failed to address the tally sheet's "zeros" for non-existence, suggesting a lack of good faith by obscuring document status.
- (D)** Even after the *Notice of Fault* (March 8, received March 10), the March 11 response was incomplete, and the March 28 response (post-ADACL) remained deficient.

(ii) Violation of § 119.07(1)(e) - Failure to State Statutory Basis for Withholding

- (A)** The City provided no records for DR3 (economic impact assessments), DR4 (legal memos), and DR6 (Business Impact Estimate) by March 28, 2025, nor did they cite any exemptions for withholding them, despite 41 days since receipt.

(B) The tally sheet requested exemptions be marked, but the City ignored this, leaving ambiguity about whether these records exist or are exempt.

(iii) Violation of § 119.07(1)(f) - Failure to Provide Written Reasons for Denial Upon Request

(A) PRR2025-22 (February 2, 2025) implicitly requested clarity via the tally sheet's columns for exemptions and non-existence, yet the City's responses (March 11 and March 28) provided no written reasons for omitting DR3, DR4, and DR6.

(B) Clerk LaRowe's claim of "complete" on March 11 didn't explain the omissions, nor did Deputy Clerk Wilson's March 28 email specify reasons.

(iv) Violation of § 119.07(1)(a) - Failure to Provide Access at a Reasonable Time

(A) The 21-business-day delay (February 5 to March 11) and incomplete responses (omitting DR3, DR4, DR6) prevented access within a reasonable time.

(B) The City's failure to complete the tally sheet or provide all requested records by March 28, 2025 (41 days total), further delayed access, despite willingness of undersigned to forgo a cost estimate in favor of just the tally for expediency.

(v) Violation of § 119.01(1) - General Policy of Openness Not Upheld

(A) The City's pattern of delay, omission (DR3, DR4, DR6), and refusal to mark "zeros" or exemptions contravenes Florida's broad transparency policy.

(B) This opacity undermines your ability to verify Ordinance 2025-05's basis, conflicting with the statutory duty to provide access.

(b) Elliott v. Aurora Loan Servs. (unreported) supports un rebutted affidavits (Verified FFAR) as facts the City hasn't contested.

(5) Consequences of Default: The City's non-response to DR3, DR4, and inadequate responses to DR1, DR2, DR5, and DR6 admit:

- | | |
|---|--|
| (a) No city-wide health crisis (DR1). | (d) No comprehensive legal foundation (DR4). |
| (b) No broad community consensus (DR2). | |
| (c) No economic data linking noise to property values (DR3). | (e) No pervasive enforcement need (DR5). |
| | (f) An unquantified BIE per Fla. Stat. § 166.041(4)(a) (DR6). |

These undermine the January 28, 2025, agenda packet, rendering Ordinance 2025-05 deficient as the City plans an April 22, 2025, workshop.

V. RELIEF SOUGHT

I request that the mediator, pursuant to Fla. Stat. § 44.102(3) and FAC R. 61B-80.002, address the City's violations of Chapter 119, Florida Statutes, as follows:

(1) Recognize the City's Administrative Default: Formally note the City's tacit admission, via common law (*qui tacet consentire videtur* - Fla. Stat. § 2.01), partial fulfillment, reactive compliance, procedural delays, and strategic withholding, and that documents DR3, DR4, and portions of DR1, DR2, DR5, and DR6 - their subclasses in the original request and tally table - do not exist or do contradict their position on Ordinance 2025-05, due to:

(a) § 119.07(1)(c): Failure to respond promptly (21 business days vs. 10-day precedent) and in good faith, omitting DR3, DR4, and DR6 without tally sheet "zeros" after 41 days.

- (b) § 119.07(1)(e):** Failure to state statutory exemptions for withholding DR3, DR4, and DR6, despite my tally sheet request.
- (c) § 119.07(1)(f):** Failure to provide written reasons for omitting DR3, DR4, and DR6, despite my implied request via the tally sheet.
- (d) § 119.07(1)(a):** Failure to provide access within a reasonable time, delaying full response beyond 41 days.
- (e) § 119.01(1):** Failure to uphold Florida's openness policy by obscuring document status, undermining public trust.

(2) Alternatively, Direct Clarification to Remedy Violations:

- (a)** Request that the City comply with § 119.07(1)(a), (c), (e), (f) and § 119.01(1) by:
 - (i)** Completing the tally sheet (Exhibit B) with "zeros" for non-existent documents or providing a written index confirming the status of each DR1–DR6 category and subclasses (e.g., DR3c), noting exemptions or redactions, to address the good-faith promptness (§ 119.07(1)(c)), exemption disclosure (§ 119.07(1)(e)), written reasons (§ 119.07(1)(f)), reasonable access (§ 119.07(1)(a)), and openness policy (§ 119.01(1)) violations.
 - (ii)** Request of the City to explain in writing the delay and gaps, facilitating a resolution per Fla. Stat. § 44.102(3)'s mandate to foster voluntary agreements.
- (b)** Document these statutory breaches under FAC R. 61B-80.002 to facilitate resolution, ensuring transparency per Fla. Stat. § 44.102(3).

VI. CONCLUSION

The City's refusal to confirm document status obstructs my ability to verify Ordinance 2025-05's basis, violating Fla. Stat. § 119.07(1)(a), (c), (e), (f) and § 119.01(1), and undermining transparency and public trust. The 2nd DCA in *Times Publishing Co. v. Williams*, 222 So. 2d 470, 473 (Fla. 2d DCA 1969), held, "The public has a right to know what their

officials are doing, and this right exists to prevent the kind of governmental action which breeds distrust”—a principle still resonant despite partial disapproval on other grounds by *Neu v. Miami Herald Publishing Co.*, 462 So. 2d 821 (Fla. 1985). Florida courts further affirm: “Mere showing that the government in the sunshine law has been violated constitutes an irreparable public injury” (*Zorc v. City of Vero Beach*, 722 So. 2d 891, 893, Fla. 4th DCA 1998), quoting *Gradison*, 296 So. 2d 477), and “Statutes enacted for the public benefit should be interpreted most favorably to the public” (*Krause v. Reno*, 366 So. 2d 1244, 1252, Fla. 3d DCA 1979), quoting *Doran*, 224 So. 2d at 699). Recognizing the City’s default or directing clarification upholds Chapter 119 and resolves this dispute.

Constitutionally Yours,



Geoffrey Jacob Caputo

Attachments:

Exhibits A–H

Memoranda of Law in Support of ADACL